

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ZIH Corp.,

Plaintiff,

v.

Paxar Corporation,

Defendant.

C.A. No.: 1:03-cv-12358-DPW

PLAINTIFF ZIH CORP.'S RESPONSE TO THE COURT'S ORDER OF JANUARY 26, 2004

The Court's January 26, 2004, Order requires plaintiff ZIH Corp. ("ZIH") to advise the Court whether ZIH will raise U.S. Patent Nos. 5,813,343 and 5,860,753 "in the other litigation (the first Ohio action) so as to cause them to be construed by the Ohio court." Pursuant to that Order, ZIH hereby advises the Court that U.S. Patent Nos. 5,813,343 and 5,860,753 will not be raised by ZIH and its co-defendants in the first pending Ohio action between ZIH and Paxar Americas, Inc. (Civil Action No. 3:03-cv-00142-WHR in the United States District Court for the Southern District of Ohio) so as to cause those patents to be construed by the Ohio court.

Dated: February 2, 2004

Respectfully submitted,

/s/ Brian M. Gaff

Douglas J. Kline, BBO# 556680
Christopher W. Stamos, BBO# 633645
Brian M. Gaff, BBO# 642297
William A. Meunier (pro hac vice)
Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110-2704
Phone: (617) 248-7000
Fax: (617) 248-7100
Attorneys for Plaintiff ZIH Corp.

(Filed electronically – Certificate of Service not required.)
3015391